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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,535	08/19/2003	Akihiko Sakamoto	SAKAMOTO ET AL3	4279
25889	7590	04/29/2005	EXAMINER	
WILLIAM COLLARD COLLARD & ROE, P.C. 1077 NORTHERN BOULEVARD ROSLYN, NY 11576			GROUP, KARL E	
			ART UNIT	PAPER NUMBER
			1755	

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/643,535

Applicant(s)

SAKAMOTO ET AL.

Examiner

Karl E. Group

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 April 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1,4-10 are rejected under 35 U.S.C. 102(a or e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ota et al (6,689,704).

Ota et al teach a crystallized glass ceramic composition with example 1 having the composition of:

SiO ₂	62.7 wt%
Al ₂ O ₃	23.5
Li ₂ O	4.4
MgO	1.5
ZrO ₂	1.2
Sb ₂ O ₃	1.4
K ₂ O	2.0
Na ₂ O	.5
TiO ₂	1.9, with a Li ₂ O/K ₂ O ratio of 2.2.

The glass crystallizes a negative thermal expansion phase (beta-quartz or spodumene) at temperature not unlike the instant invention 850-950°C, see column 3, lines 39-41 and column 4, lines 43-50. In view of the same composition and processing parameters it would be expected that the properties of claims 4-9 would be inherent absent tangible evidence to the contrary. It is

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also noted that Ota et al teach a thermal expansion not unlike that of the instant invention, see example 1 in Table 2.

It is well settled that when a claimed composition appears to be substantially the same as a composition disclosed in the prior art, the burden is properly upon the applicant to prove by way of tangible evidence that the prior art composition does not necessarily possess characteristics attributed to the CLAIMED composition. In re Spada, 911 F.2d 705, 15 USPQ2d 1655 (Fed. Circ. 1990); In re Fitzgerald, 619 F.2d 67, 205 USPQ 594 (CCPA 1980); In re Swinehart, 439 F.2d 2109, 169 USPQ 226 (CCPA 1971).

3. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ota et al ((6,689,704) further in view of Kitamura et al (6,750,167).

Ota et al fail to teach the addition of SnO_2 .

Kitamura et al teach a beta -quartz, spodumene crystallized glass composition similar to that claimed and taught in Ota et al where SnO_2 is added to aid in the fining of the glass and improve nucleation ability.


It would have been obvious to one of ordinary skill in the art at the time of the invention to add SnO_2 to the glass composition of Ota et al because of Kitamura et al teach SnO_2 is known to aid in the fining and nucleation of the glass.

4. The prior art rejections made in the previous office action are withdrawn in view of applicants' arguments and amendments to the claims.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Karl E. Group whose telephone number is 571-272-1368. The examiner can normally be reached on M-F (6:30-4:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo can be reached on 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Karl E Group
Primary Examiner
Art Unit 1755

Keg
4-28-05